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[H.R. 3797, the Satisfying Energy Needs and Saving the Environment \(SENSE\) Act](#)

FLOOR SITUATION

On Tuesday, March 15, 2016, the House will consider [H.R. 3797](#), the Satisfying Energy Needs and Saving the Environment (SENSE) Act, under a [structured rule](#). H.R. 3797 was introduced on October 22, 2015 by Rep. Keith Rothfus (R-PA), and was referred to the Committee on Energy and Commerce, which ordered the bill reported by a vote of 29-22 on February 25, 2016.

SUMMARY

H.R. 3797 addresses the application of the Environmental Protection Agency's (EPA) Cross-State Air Pollution Rule (CSAPR) and the Mercury and Air Toxics Standards for Power Plants (MATS) to power plants that utilize coal refuse to generate electricity.

Specifically, H.R. 3797 provides flexibility to these coal refuse-to-energy plants by:

- Allocating additional sulfur dioxide allowances under the CSAPR program to coal refuse-to-energy facilities. Allowances would be reduced elsewhere in the program so each State's total number of allowances would not change.
- Creating an alternate means to demonstrate compliance with the hydrochloric acid standard in MATS by using sulfur dioxide as a proxy.

Additionally, this legislation prohibits these coal refuse-to-waste plants from transferring unused sulfur dioxide allowance allocations to another facility. These plants, however, could bank the unused allowances for compliance with CSAPR in future years.

BACKGROUND

Coal refuse is the aboveground waste produce of coal mining found near many abandoned mines in Pennsylvania and other coal mining areas. These coal refuse piles pose a number of environmental and safety threats. Coal refuse-to-energy facilities are designed to recycle the coal refuse by using it as an energy source to generate affordable, reliable electricity. There are 19 coal refuse-to-energy facilities, including 14 in Pennsylvania.¹

¹ See [H. Rept. 114-445](#) at 2.

On July 6, 2011, the Environmental Protection Agency (EPA) finalized [CSAPR](#) which requires reductions in sulfur dioxide and nitrogen oxide emissions from electric generating units located in the 28 States covered by the rule. There are two phases to CSAPR. Phase 1 implementation began in 2015. Phase 2, in which additional reductions need to be made, is scheduled for implementation beginning in 2017.

On February 16, 2012, EPA finalized the [MATS](#) rule that requires reductions in emissions of mercury and other air toxins, including certain acid gases from power plants. On June 29, 2015, the U.S. Supreme Court ruled that EPA erred when the agency concluded that costs did not need to be considered in determining whether to issue the MATS rule. The EPA is still in the process of responding to this ruling, most recently with a November 20, 2015 proposed supplemental finding concluding that consideration of costs would not have altered EPA's decision to issue the original rule.

Many operators of the coal refuse-to-energy plants have expressed concerns that some of the requirements in CSAPR and MATS may force them to cease operations.² According to the bill sponsor, this bill “ensures coal refuse plants can continue restoring the environment, protecting health, and creating hundreds of good paying jobs.”³

COST

The Congressional Budget Office (CBO) [estimates](#) implementing H.R. 3797 would have an insignificant cost to EPA. Because enacting this bill would not affect direct spending or revenues, pay-as-you-go procedures do not apply. Additionally, CBO estimates that enacting H.R. 3797 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

AMENDMENTS

- 1) Rep. Frank Pallone (D-NJ) –The [amendment](#) strikes the Cross-State Air Pollution Rule portion of the bill.
- 2) Rep. Elliot Engel (D-NY)—The [amendment](#) gives the Governor of a State the ability to opt-out of the Cross-State Air Pollution Rule portion of the bill if the Governor determines that implementing that provision would increase the overall cost of complying with EPA's rule.
- 3) Rep. Ami Bera (D-CA)—The [amendment](#) requires a GAO report on the increase in sulfur dioxide and other air pollution emissions that result from this Act and the effect of such emissions on public health.
- 4) Rep. Scott Peters (D-CA)—The [amendment](#) requires the EPA to provide notice to communities about the anticipated effects of this Act on air quality not later than 90 days after the date of enactment of this Act.
- 5) Rep. Marc Veasey (D-TX)—The [amendment](#) ensures public health is taken into account by the Administrator of the Environmental Protection Agency before law goes into effect.

² See Committee on Energy and Commerce [Memorandum](#) February 1, 2016.

³ See Rep. Rothfus Press Release, “[Rothfus Introduces SENSE Act](#),” Oct. 22, 2016.

STAFF CONTACT

For questions or further information please contact [Molly Newell](#) with the House Republican Policy Committee by email or at 2-1374.